Supreme Court, U.S.
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No. 96-1708

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1996

VERONICE A. HOLT
Petitioner,

v.

THE HONORABLE CHARLES O. MITCHELL
Respondent,

Petition for Writ of Certiorari
To the Supreme Court of
The State of Florida

PETITIONER'S REPLY BRIEF

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Petitioner respectfully suggests that review of the proceedings below is both appropriate and necessary to maintain this Court's role as the final arbiter of issues of full faith and credit. ***Morris v. Jones,*** 329 U.S. 545 (1946); ***Williams v. North Carolina,*** 317 U.S. 287 (1942). As discussed below petitioner expressly and consistently pleaded and raised the prior Michigan adjudications of insanity and guardianship as dispositive on the issue of Lloyd Holt's testamentary capacity in the proceedings in the Florida courts. The Florida courts simply refused to address the effect to be given to the prior Michigan adjudication. Further, in his opposition, Respondent clearly does not dispute either the near absoluteness of the Full Faith and Credit Clause nor its applicability to the prior Michigan adjudications of insanity and guardianship. What Respondent does seek to do is exactly that which the full faith and credit clause prohibits, that is to revisit and to relitigate the issues of Lloyd Holt's sanity and the necessity for guardianship.

I. PETITIONER'S FEDERAL CONSTITUTIONAL ISSUES WERE CLEARLY RAISED BELOW

Petitioner moved for summary judgment. In her motion, Petitioner expressly asserted the prior Michigan adjudications of insanity and guardianship as a bar to Lloyd Holt having testamentary capacity. The Florida Probate Court denied the motion without opinion, without findings of fact or conclusions of law or any determination of the effect to be given the prior

Michigan adjudications. At that point, Petitioner was required to proceed to trial on all issues including presenting other evidence regarding testamentary capacity and undue influence. In the appellate Court, Petitioner expressly appealed the denial of the motion for summary judgment as well as the trial court's final order.

Petitioner fully understands that it is not the role of this Court to redetermine factual issues determined by the Florida courts. For example, Petitioner understands and accepts the finality of the Florida courts determination of the issue of undue influence and does not raise that issue here.

Petitioner seeks from this Court solely an adjudication of the legal issues raised in her Petition, specifically, the constitutional obligations of the Florida courts to grant full faith and credit to a prior adjudication of a sister state and the requirement that the State of Florida grant to Petitioner the same privileges and immunities it grants to its own domiciliaries.

In the appeal before the Florida District Court of Appeal, Petitioner expressly argued that the prior Michigan adjudications of insanity and guardianship barred the Florida Court from finding that the decedent Lloyd Holt had testamentary capacity. When the First District Court of Appeal refused to address this issue, Petitioner sought a petition for a writ of mandamus or prohibition.

Respondent Lee improperly analogizes Petitioner Holt's posture to that of the Petitioner in ***Yee v. City of Escondido***, 503 U.S. 519 (1992). In ***Yee,*** the Petitioner had raised his constitutional issue (the Fifth Amendment Takings Clause) only in his petition to the California Supreme Court for discretionary review which was denied without opinion. In this case, the Florida Supreme Court expressly ruled, and Petitioner Holt agrees, that it was without jurisdiction to grant discretionary review of First District Court of Appeal's decision.. The Florida Supreme Court, however, did have the power to grant either a writ of prohibition or mandamus. Indeed Respondent Lee sought a ruling from the Florida Supreme Court that it lacked jurisdiction to grant the writ. The Florida Supreme Court ignored Lee's request and denied the writ on the merits.

Likewise, Petitioner Holt does not appear before this Court in the same posture as that of the petitioner in ***Beck v. Washington,*** 369 U.S. 541 (1962). In ***Beck,*** a fourteenth amendment equal protection case, the respondent asserted, and this Court found, that the petitioner had failed to comply with express provisions of Washington state law delineating the requirements for preserving and presenting appellate issues. Respondent Lee does not articulate any such failure on the part of Petitioner Holt.

Petitioner clearly raised the equal protection issue in the First District Court of Appeal on direct appeal as well as in the petition for mandamus or prohibition. The procedure in Florida is for the District Court of Appeal to

issue a decision which does not become final for fourteen days. During that period of time either party may seek rehearing, reconsideration or clarification. Holt, in her timely filed Petition for rehearing, reconsideration or clarification, expressly raised the equal protection issue in the First District Court of Appeal.

> "...the lower Court and now a panel of this Court, have issued opinions in which there is absolutely no reference, mention or acknowledgement of the facts: 1) that prior to making the will Lloyd Holt was adjudicated insane and not restored to sanity; *** Due process and equal protection of the laws require that Appellant receive the same reasoned legal analysis in the decision of her appeal that any other litigant in the Court of this State should expect. "

Respondent notably has chosen to attack only the petition for writ of certiorari to the Supreme Court of Florida. He has not attacked the petition for writ of certiorari to the First District Court of Appeal.

II. THE ISSUES RAISED IN THIS PETITION ARE PURELY LEGAL AND NOT FACTUAL

Finally Respondent Lee seeks to muddy the waters by arguing that what are clearly legal questions are factual issues. That is the purpose of the suggestion that Lloyd Holt had a twenty year nervous breakdown rather than being insane. All of these assertions are irrelevant to the determination of the issues presented herein. In the proceedings below Respondent stipulated to the records

of the Michigan adjudications of insanity and guardianship. It is just this type of retroactive inquiry that full faith and credit is designed to prohibit. ***Aldrich v. Aldrich,*** 378 U.S. 540 (1963).

III. UNDER MICHIGAN LAW, AN ADJUDICATION OF INSANITY COUPLED WITH GUARDIANSHIP CONCLUSIVELY RENDERS A PERSON INCOMPETENT TO TRANSFER PROPERTY

Perhaps, Respondent Lee's weakest argument is his suggestion that Michigan law permits an evidentiary determination of testamentary capacity where a person has been adjudicated insane and under guardianship. In 1937, the Michigan Supreme Court unambiguously adopted a preclusive rule on the effect of guardianship and incompetency. ***Acacia Mut. Life Ins. Co. v. Jago,*** 273 N.W. 599 (Mich. 1937)

> "After a careful examination of the authorities *** we conclude that the correct rule is **that while an insane or incompetent person is under actual and subsisting guardianship of estate, he is conclusively presumed incompetent to make a valid contract, notwithstanding it was made during a lucid interval.** He is a ward of the probate court under the laws of this state. The guardian, an officer of the court has the sole legal right to sell, assign, or mortgage the property belonging to his

ward's estate, and any such transfer without the knowledge and consent of the guardian is void." [1]

See also ***May v. Leneair,*** 297 N.W. 2d 599 (Mich. App. 1980) Although cited in the Petition for certiorari, Respondent entirely ignores ***Acacia.*** Respondent relies upon six Michigan cases that are neither legally controlling precedent nor factually apposite. Four of Respondent's cases were decided prior to ***Acacia.***[2] The two post ***Acacia*** cases cited by Respondent do not involve the effect to be given to transfers of property by persons who are **both** adjudicated insane and under legal guardianship.[3]

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[1] In this case, it is undisputed that the guardian had absolutely no knowledge of the making of the will and did not give consent.

[2] ***Rice v. Rice,*** 15 N.W. 545, 50 Mich. 448 (Mich. 1883); ***Schneider v. Vosburgh,*** 106 N.W. 1129, 143 Mich. 476 (Mich. 1906); ***In re Weber's Estate,*** 167 N.W. 937, 201 Mich 477 (Mich. 1918); and ***In re Cummins Estate,*** 259 N.W. 894, 271 Mich. 215 (Mich. 1935).

[3] In ***In re Vallender's Estate,*** 17 N.W.2d 213, 310 Mich. 359 (Mich. 1945) the decedent had consented to guardianship of his property. He had not been declared insane and there was no allegation that he was insane. ***In re Johnson's Estate,*** 281 N.W. 597, 286 Mich. 213 (Mich. 1938) is a case involving a petition by a live party to discharge guardianship.

CONCLUSION

The writ should be granted and the case remanded. The State of Florida must be required to expressly acknowledge and adjudicate its obligation to give full faith and credit to the prior Michigan adjudications of insanity and guardianship. The Florida courts must then determine what effect the State of Michigan would give the prior adjudications of insanity and guardianship. Florida must then give the adjudications the same effect.

June 12, 1997

Respectfully submitted,

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